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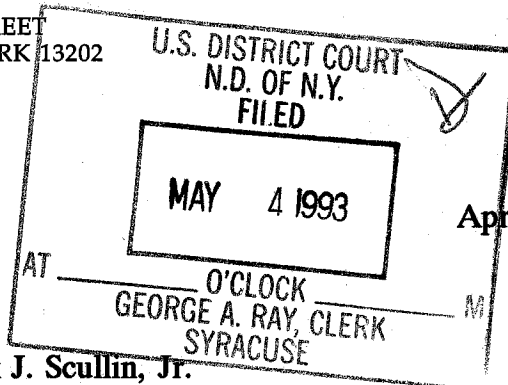
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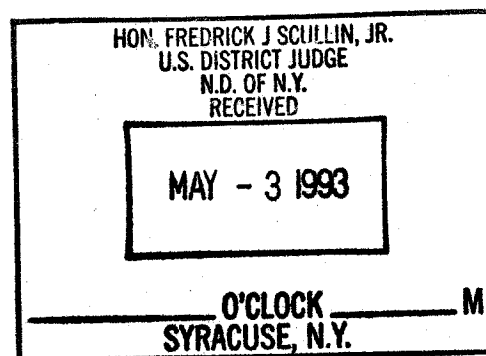
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OF COUNSEL  
JOHN A. DeFRANCISCO

April 30, 1993

Hon. Frederick J. Scullin, Jr.  
U.S. District Judge  
U.S. Courthouse  
Syracuse, New York 13260

Re: Papineau, et al. vs. Dillon, et al.  
93-CV-491



Dear Judge Scullin:

When we appeared before you on April 22, 1993, you indicated that you desired a submission from the Defendants as to exactly what the policy was. Since Mr. Gerber handed in his affidavit at oral argument, neither you nor I had an opportunity to review it or its attached exhibit. Its attached exhibit was the policy.

Had the Court had an opportunity to review this policy, the Court's adroit questioning of Mr. Gerber could have been dispensed with.

I am enclosing herewith a policy that has been provided to me in response to the subpoenas that I served in connection with the April 22 hearing. I am sending this to you now because I submit that nothing further need be submitted. This is the policy in black and white, and it is dated November 13, 1992.

This policy answers at least three of the questions that the Court posited at oral argument:

1. Is this policy one of permission or notification? As set forth below the answer is:

a) Permission. (See paragraphs 1, 4, 5, 6, and 7 below, where the term "permission" is used).

2. What happens if permission is denied?

b) If permission is denied, the denial is honored by the Sheriff's Department. (See paragraphs 5 and 6 below).

3. Is this policy based upon the racial composition of the persons who reside in the area, assuming that those persons are exclusively or predominately Indians?

c) Yes. In some manner or part, terms such as "Nation inhabitants", the "Nation", and "non-Indians" clearly shows that this policy is based, at least in part, on race.

In support of the answers to the above questions with which the Court was concerned at oral argument, I offer the following analysis of the Sheriff's policy:

1. "There shall be no normal patrol operations within the Onondaga Nation".  
[.03(a)]

2. "Pursuits of non-Indians may continue onto the Nation with permission of one of the Chiefs". [.03(b)]

3. "Pursuit of Nation inhabitants shall cease at the Nation boundary".  
[.03(b)]

4. With regard to calls for service, "A Nation Chief, as listed in § .07, will be asked for permission to respond onto the Nation". [.04(a)]

5. Concerning alarm calls, "the Chiefs will be notified for permission to continue. If permission is denied, patrols are to clear code 9 on an M.I.R. and return to routine patrol". [.04(b)]

6. With regard to any call for service, "if permission to respond onto the Nation is denied, the complainant shall be notified and asked to meet with a deputy off the Nation to report for the complaint". [.04, last unlettered paragraph]

7. "A Nation Chief shall be contacted for permission before a follow-up investigation on the Nation commences". [.05]

I wanted you to have this information at the earliest possible opportunity. I will reiterate its substance in any supplemental memorandum.

Very truly yours,

  
John J. Brunetti

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enc.

cc: Lawrence Williams, Esq.  
Edward Gerber, Esq.

ONONDAGA COUNTY SHERIFF'S DEPARTMENT

WRITTEN DIRECTIVE

ORDER TYPE: Standard Operating Procedure      ORDER NUMBER: SOP-C-4001-88  
DATE OF ISSUE: 29 February 1988      ORDER RESCINDED:  
EFFECTIVE DATE: 29 February 1988      ORDERS AMENDED: 13 November 92  
CANCEL ON:      AUTHORITY: Sheriff J.C. Dillon  
SUBJECT: Onondaga Nation Response  
INDEX REFERENCE: Reservation, Response To      DISTRIBUTION: All Personnel

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This order consists of the following numbered sections:

- .00 TITLE
- .01 PURPOSE
- .02 POLICY
- .03 NORMAL PATROL OPERATIONS
- .04 CALLS FOR SERVICE
- .05 FOLLOW-UP INVESTIGATIONS
- .06 ARRESTS/WARRANTS PROCEDURE
- .07 NOTIFICATIONS

.00 TITLE

S.O.P. Onondaga Nation Response

.01 PURPOSE

This order supercedes all previous orders and memoranda regarding Sheriff's Department responses to the Onondaga Nation.

.02 POLICY

The Onondaga County Sheriff's Department, in accordance with provisions of Federal Law and the Treaty of the Six Nations, in attempting to maintain the established peace and friendship with the Onondaga Nation and allow its members the free use and enjoyment of their lands, has established this standard operating procedure for response to incidents which occur on the Onondaga Nation.

.03 NORMAL PATROL OPERATIONS

- a) There shall be no normal patrol operations within the Onondaga Nation.
- b) Pursuits of non-indians may continue onto the Nation with permission of one of the Chiefs. Pursuing patrols shall proceed with extreme caution. Pursuits of Nation inhabitants shall cease at the Nation boundary. A warrant for the individual shall be obtained if possible.

- c) If an emergency response requires travel through the Nation, the patrol shall use emergency lights and drive with extreme caution. The siren shall not be used.

#### **.04 CALLS FOR SERVICE**

- a) Sheriff's Department patrols shall respond to calls for service on the Onondaga Nation. A Nation Chief, as listed in section .07, will be asked for permission to respond onto the Nation. It should be noted that at times a large number of residents may gather to observe investigations. This is a requirement of tribal law and may be cause for caution but not alarm. The Nation requires residents to observe and report all matters to the Chief of the Nation.
- b) Alarm Calls: Upon receipt of an alarm activation, patrols will respond to the Onondaga Nation line. The Chiefs will be notified for permission to continue. If permission is denied, the patrols are to clear code 9 on an M.I.R. and return to routine patrol.
- c) Accidents: PDAA's and PIAA's occurring on U.S. Route 11 at Quarry Road (Route 81 exit) or entrance will be responded to upon receipt. The Watch sergeant or lieutenant shall also be advised and an attempt made to contact the chiefs as listed.

If permission to respond onto the Nation is denied, the complainant shall be notified and asked to meet with a Deputy off the Nation to report for the complaint.

#### **.05 FOLLOW-UP INVESTIGATIONS**

A Nation Chief shall be contacted for permission before a follow-up investigation on the Nation commences. Follow-ups that are conducted off Nation land do not require any notifications.

#### **.06 ARREST/WARRANT PROCEDURE**

If a suspect is identified during an investigation, a Nation Chief may be requested to surrender the suspect for prosecution. If the Chief surrenders the suspect, he shall be processed per normal procedures. If the council decides not to surrender a suspect and the complainant still desires prosecution and all the elements of a crime are met, a warrant shall be obtained as soon as practical after a suspect has been identified. It is not necessary to obtain permission from a Nation Chief to obtain a warrant. Warrants shall be forwarded to the Warrants Investigation Unit for processing and follow-up.

#### **.07 NOTIFICATIONS**

- a) The E-911 Control Center shall, during office hours, notify the Sheriff or Undersheriff of all responses or incidents related to the Onondaga Nation that are or reasonably expected to be of extenuating circumstances. At all other times the Department Duty Commander

shall be notified and he shall be responsible for Sheriff and Undersheriff Notifications. (Sheriff - hm #478-8208, page #441-6800, radio 4799) (Undersheriff - hm #487-1750, page #441-4901, radio 4798).

b) Those persons to call regarding Nation responses are:

|                           | <u>Cell Phone</u> | <u>Home #</u>        |
|---------------------------|-------------------|----------------------|
| Chief Edwin Cook          | 436-2891          | 469-1875             |
| Chief Ollie Gibson        | 447-6763          | 469-8814             |
| Chief Leon Shenandoah     | 447-8362          | 469-8507             |
| Chief Paul Waterman       |                   | 446-3965 (City)      |
|                           |                   | 469-8505 (Daughters) |
| Chief Irving Powless, Jr. | 447-6784          | 492-4210             |
| Chief Norman Powless      |                   | 469-0257             |
| Chief Ambrose Gibson      |                   | 492-6738             |
| Chief Vince Johnson       |                   | 677-7786             |

This list shall not be amended without the permission of the Sheriff.